* DEPUTY ZONING COMMISSIONER * OF BALTIMORE COUNTY * Case No. 89-185-A

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit an existing fence 6 feet high and 12 feet long to be located in the rear yard adjoining a front/side yard, with a setback of 2 feet in lieu of the required 30 feet, all as more particularly described in Petitioner's Exhibit 1.

The Petitioners, Katherine Mary High and Rhonda Sue Fishel, appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as 2715 Summerson Road, is zoned D.R. 5.5 and is currently improved with a single family dwelling. Petitioners testified they purchased the subject property in July 1988. Shortly thereafter, they contracted with a fence company to install a fence in the rear yard to permit them to let their two dogs outside to roam the property without trespassing onto other properties. Testimony indicated that prior to the fencing, the children in the neighborhood played with the dogs and, from time to time, would even tease the Petitioners felt in order to protect both the children and their dogs it would be safest to fence the rear yard. The height of the fence was chosen to prevent the dogs from being able to jump over the fence. Petasioners indicated they were not advised by the fence company that a variance would be needed due to the height and location of the fence, which adjoins a front and side yard of their neighbor's property. Upon

notification that the subject fence was in violation of the zoning regulations the instant Petition was filed.

Petitioners contacted the affected neighbors whose property the fence abuts to discuss their desires. The neighbors advised Petitioners of their support for the fence. As evidence of the adjoining neighbors' consent to their request, Petitioners introduced as Petitioner's Exhibit 2 a signed notarized statement of approval by the affected neighbor. Testimony further indicated that strict compliance with the regulations would result in no fence being permitted in the rear yard.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

> 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily

2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 30th day of November, 1988 that the Petition for Zoning Variance to permit an existing fence 6 feet high and 12 feet long to be located in the rear yard adjoining a front/side yard, with a setback of 2 feet in lieu of the required 30 feet, all as more particularly described in Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions, which are conditions precedent to

> 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

> > ANN M. NASTAROWICZ Deputy Zoning Commissioner for Baltimore County

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 XXXXXX 887-3353 J. Robert Haines

November 30, 1988

Ms. Katherine Mary High Dr. Rhonda Sue Fishel 2715 Summerson Road Baltimore, Maryland 21209

RE: PETITION FOR ZONING VARIANCE SE/Corner Summerson and Wickfield Roads (2715 Summerson Road) 3rd Election District - 2nd Councilmanic District Katherine Mary High, et al - Petitioners Case No. 89-185-A

Dear Ms. High and Dr. Fishel:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

Very truly yours,

(M Nostroning ANN M. NASTAROWICZ

Deputy Zoning Commissioner for Baltimore County

cc: Mr. Irvin Kaplan 6607 Wickfield Road, Baltimore, Md. 21209

People's Counsel

AMN:bjs

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 427.B. To allow a fence with a height of 6 ft. in the rear yard adjoining a front/side yard, a length of 12 ft. with a 2 ft. setback in lieu of the required 30 ft

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the Zoning reasons: (indicate hardship or practical difficulty)

1. We own two large dogs that could jump over a 3 foot fence.

2. The fence prevents the neighborhood children from coming into 3 the yard and bothering the dogs. 3. The privacy fence will increase property values. 4. We are considering installing a pool in the future.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition. Contract Purchaser: (Type or Print Name) Katherine Mary High (Type or Print Name)

MHTOUSE Many City and State Attorney for Petitioner: 2715 Summerson Rd. Name, address and phone number of legal owner, con-

day of Storeaber, 19 88, at // o'clock County, on the

Attorney's Telephone No.:

Zoning Commissioner of Baltimore County.

tract purchaser or representative to be contacted

2715 Summerson Rd.

8-28-88

ZONING DESCRIPTION

Owners: Katherine Mary High Rhonda Sue Fishel

Beginning on the east side of Wickfield Rd. and the south side of Summerson Rd. 60 feet wide on the corner. Being Lot #1, Block "F", in the subdivision Pickwick. Book No. 29, Folio 146. Also known as 2715 Summerson Road in the 3rd Election District.

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY

Date of Posting October 24 1988 Location of property: SEC Summerson and Wickfield Reads

NOTICE OF HEARING The Zoning Commissioner of Baltimore County, by authority of the Zorling Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows: Petition for Loning Varian Case number: 89-185-A EC Summerson and Wi (2715 Summerson Road) 3rd Election District Petitioner(s):
Katherine Mary High, et al.
Hearing Date: Thursday,
Nov. 17, 1988
at 11:00 a.m.*

Variance to allow a fence with

a height of 6 ft. in the rear yard ad-joining a front/side yard, a length of 12 ft. with a 2 ft. setback in lieu of the required 30 ft. "IF PHASE II OF THE SNOW EMERGENCY PLAN IS IN EF-

FECT ON THIS DATE, CASE MAY BE RESCHEDULED, CALL

494-3391 TO CONFIRM DATE. In the event that this Petition is

assued within the thirty (30) day appeal penod. The Zoning Commissioner will, however, entertain any request for a stay of the is-

suance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the

date of the hearing set above or presented at the hearing.

Number of Signs:

TOWSON, MD., October 28 , 1988

PO 05227 rea 1120382 case 89-185-A

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on October 27 1988.

THE JEFFERSONIAN,

89-185-A

CELTIFICATE OF PUBLICATION

Fikesville, Md., 10/26 1988

THIS IS TO CERTIFY, that the annexed advertisment was published in the NORTHWEST STAR, a weekly newspaper published in Pikesville, Baltimore County. Maryland before the 27th day of

the first publication appearing on the 26th cay of God. . 19 88 the secend publication appearing on the

Oct 19 87

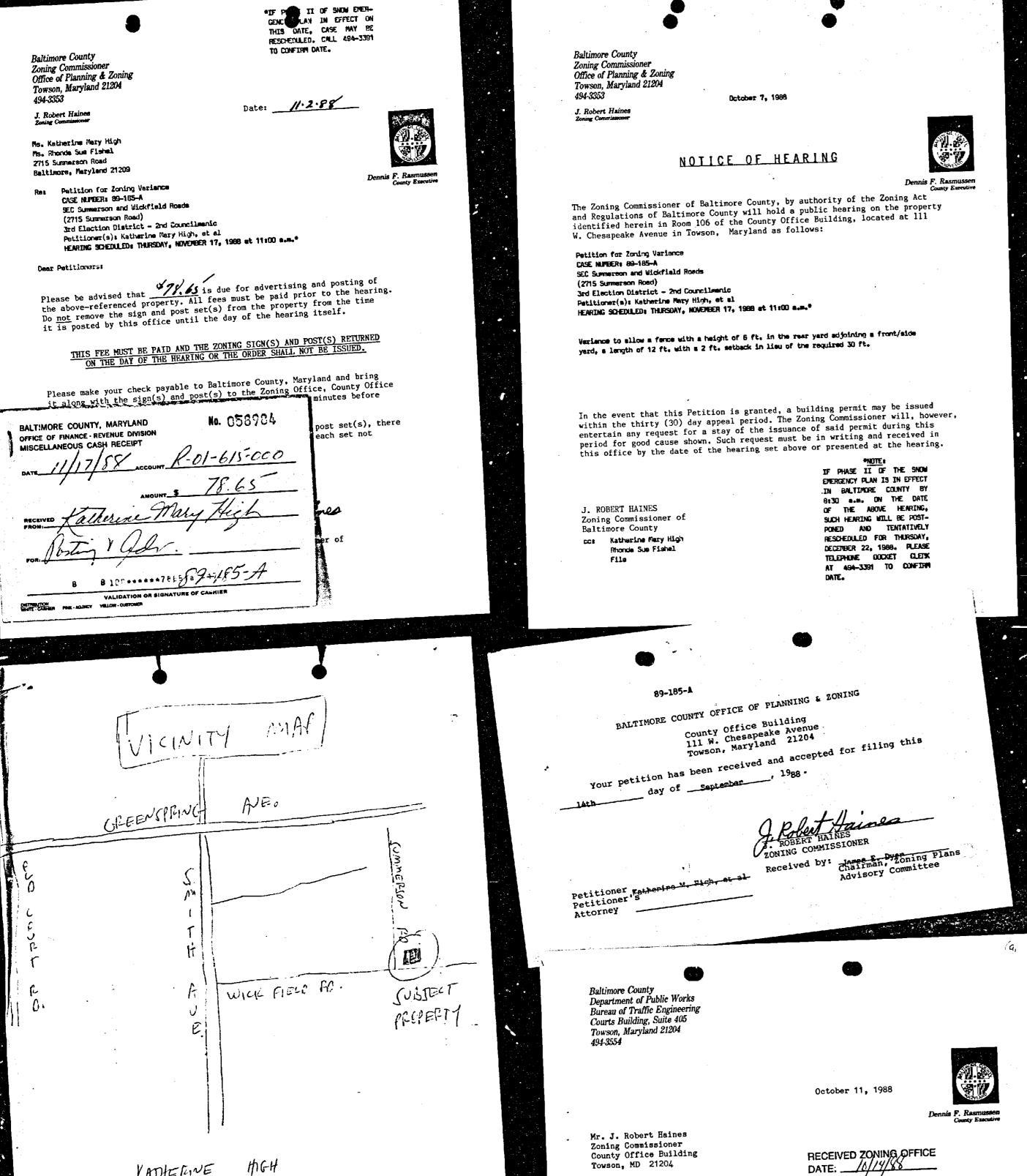
_____day of____ the third publication appearing on the

THE NORTHWEST STAR

Cost of Advertisement

price \$ 41.25 J

J. ROBERT HAINES Zoning Commissioner of Baltimore County 10/173 Oct. 27.



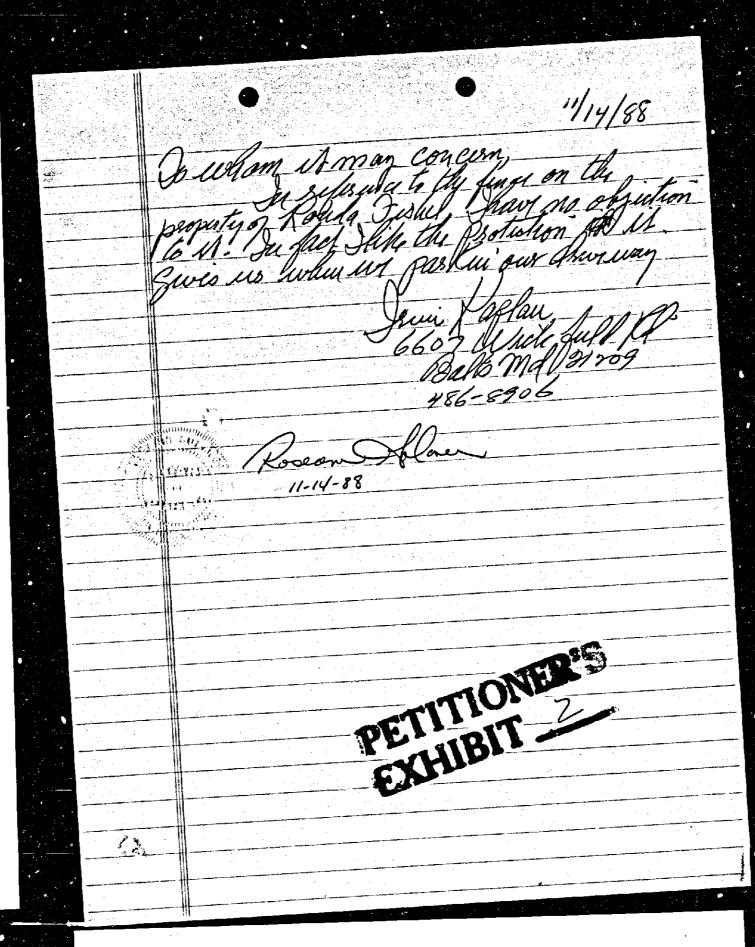
The Bureau of Traffic Engineering has no comments for items number 65, 67, 86, 87, 89, 90, 91 (92)

MSF:lab

Very truly yours,

Michael S. Flanigan Traffic Ergineer Associate II

2715 SUMMERSON RO.



September 12, 1988

Baltimore County Fire Department

Paul H. Reincke Chief

J. Robert Haines Zoning Commissioner

Towson, MD 21204

Towson, Maryland 21204-2586

Office of Planning and Zoning

Baltimore County Office Building

Re: Property Owner: Katherine Mary High/Rhonda Sue fishel

Location: SE/c Summerson & Wickfield Roads

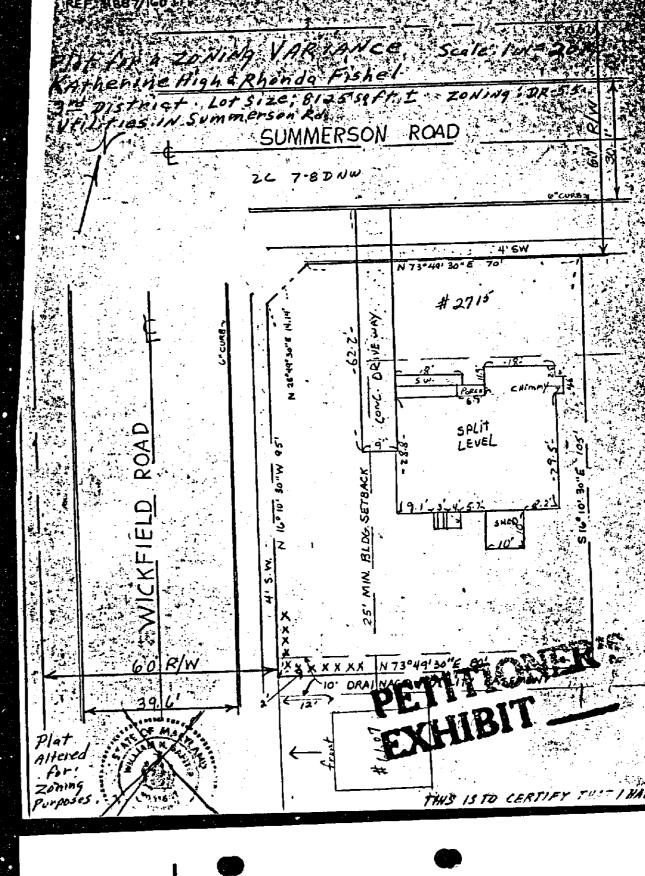
2715 Summerson Road

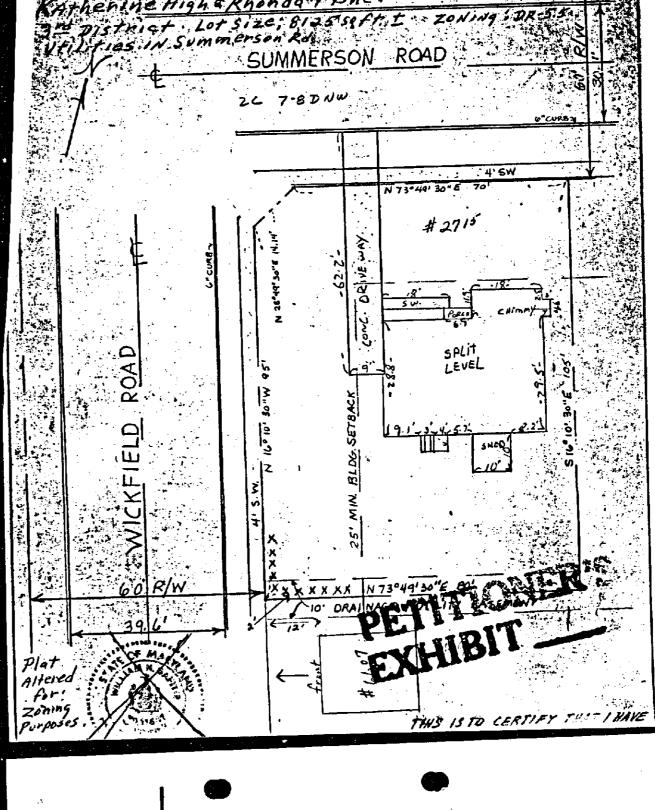
of Public Works.

prior to occupancy.

() 6. Site plans are approved, as drawn.

REVIEWER: Of 13-05 Approved: Fire Special Inspection Division





BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

RE: Item No. 92 - Case No. 89-185-A
Petitioner: Katherine M. High, et al

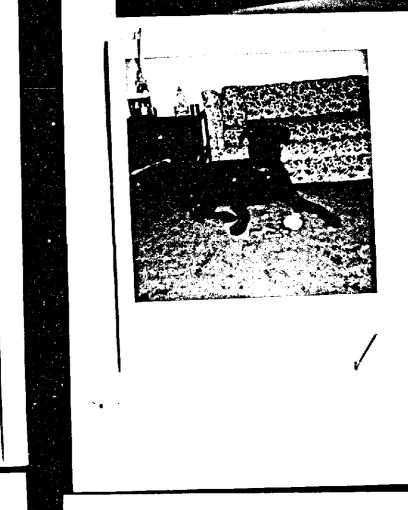
Petition for Zoning Variance

Ms. Katherine M. High and

Dear Ms. High and Ms. Fishel:

Ms. Rhonda S. Fishel

2715 Summerson Road Baltimore, Maryland 21209 November 2, 1988



BATIMORE COUNTY, MAR AND

PETITIONER(S) EXHIBIT (3)

INTER-OFFICE CORRESPONDENCE

J. Robert Haines,

Date November 14, 1988 TO Zoning Commissioner

Pat Keller, Deputy Director FROM Office of Planning and Zoning

Zoning Petition No. 89-185-A SUBJECT High/Fishel

Any fencing placed along Wickfield Road should be setback 10 feet from the property line and landscaped along the street side. The landscape manual is attempting to address the visual problem of opaque fences located

Zoning Agenda: Meeting of 9/13/88 Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property. () 1. Fire hydrants for the referenced property are required and shall be located at intervals or ____ feet along an approved road in accordance with Baltimore County Standards as published by the Department () 2. A second means of vehicle access is required for the site. () 3. The vehicle dead end condition shown at _____ EXCEEDS the maximum allowed by the Fire Department. () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation. () 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Pro-tection Association Standard No. 101 "Life Safety Code," 1976 edition (x) 7. The Fire Prevention Bureau has no comments at this time.

COUNTY OFFICE BLDG. 111 W. Chesapeake Ave. Towson, Maryland 21204

Bureau of

State Roads Commission

Health Department

Project Planning

Building Department

Board of Education

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly. Very truly yours, Janus & Agerlite

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments

are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware

action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations.

dations as to the suitability of the requested zoning.

JAMES E. DYER Zoning Plans Advisory Committee